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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,585	02/13/2001	Akira Ishida	P101201-00013	9722
7590	01/03/2006		EXAMINER	
ARENT FOX KINTNER PLOTKIN & KAHN, PLLC Suite 600 1050 Connecticut Avenue, N.W. Washington, DC 20036-5339			YUN, EUGENE	
			ART UNIT	PAPER NUMBER
			2682	

DATE MAILED: 01/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/781,585	ISHIDA, AKIRA
	Examiner Eugene Yun	Art Unit 2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 13 February 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: ____.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/12/2005 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hakkinen et al. (US 2001/0023185) in view of Nakano (5,933,782).

Referring to Claim 1, Hakkinen teaches a radio base station (fig. 2) for performing a radio communication with a plurality of mobile stations with a space division multiplex method (paragraphs [0015] and [0022]).

Hakkinen does not teach transmitting, when the radio base station starts a communication with a mobile station by the space division multiplex method, an instruction to stop performing a diversity reception to the mobile station. Nakano teaches transmitting, when the radio base station starts a communication with a mobile

station by the space division multiplex method (see col. 9, lines 18-24), an instruction to stop performing a diversity reception to the mobile station (see the row labeled (4) in fig. 16 and col. 9, lines 32-38), wherein the mobile station stops the diversity reception and performs a reception using one antenna (see col. 7, lines 42-57). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teachings of Nakano to said device of Hakkinen in order to maintain efficiency in RF communications and prevent the raising of bit rate.

Referring to Claim 2, Hakkinen also teaches a creation means for creating a piece of traffic channel assignment information after receiving a traffic channel assignment request from a mobile station (see paragraph [0033]);

An attachment means for attaching the diversity reception stop instruction to the piece of traffic channel assignment information (see paragraph [0040]) and

A transmission means for transmitting the piece of traffic channel assignment information with the diversity reception stop instruction, to the mobile station as a response to the traffic channel assignment request (see paragraph [0040]).

Referring to Claim 3, Hakkinen teaches a determination means for determining, after receiving a traffic channel assignment request from a mobile station, whether to allow the mobile station to space division multiplex with another mobile station which has communicated with the radio base station (see paragraphs [0015] and the second half of paragraph [0026]);

a creation means for creating a piece of traffic channel assignment information when the determination means determines to allow the mobile station to space division multiplex with the other mobile station (see paragraph [0015]);

An attachment means for attaching the diversity reception stop instruction to the piece of traffic channel assignment information (see paragraphs [0022] and [0040]) and

A transmission means for transmitting the piece of traffic channel assignment information with the diversity reception stop instruction, to the mobile station as a response to the traffic channel assignment request, and transmitting the diversity reception stop instruction to the other mobile station through a traffic channel (see paragraphs [0033] and [0040]).

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-3 have been considered but are moot in view of the new ground(s) of rejection.

5. Applicant's arguments filed 10/12/2005 have been fully considered but they are not persuasive.

The examiner points to the passage of col. 7, lines 42-57 of the Nakano reference to point that that the mobile station only has one antenna at all times. There is no indication in the Nakano reference that the mobile station uses multiple antennae at any point. Instead, the signals are spread and despread within the mobile station, not at the antenna. Therefore, it is obvious that the mobile station in the Nakano reference

uses only one antenna during diversity reception and after the end of diversity reception.

In addition, it is inherent to one skilled in the art that any wireless device can perform a reception using one antenna when it is not performing a diversity reception.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eugene Yun whose telephone number is (571) 272-7860. The examiner can normally be reached on 9:00am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on (571)272-7629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*EY*  
Eugene Yun  
Examiner  
Art Unit 2682

EY



**DORIS H. TO**  
**SUPERVISORY PATENT EXAMINER**  
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